

State of California  
BOARD OF EQUALIZATION  
SALES AND USE TAX REGULATIONS

**Regulation 1667. EXEMPTION CERTIFICATES.**

*Reference:* Sections 6385 and 6421, Revenue and Taxation Code.

- (A) Construction Contractors, see Regulation 1521.

Regulations that prescribe certificate forms:

Factory-built housing, see Regulation 1521.4.

Printed Sales Messages, See Regulation 1541.5.

Motor Vehicle and Aircraft Fuels, see Regulation 1598.

Mobilehomes and Commercial Coaches, see Regulation 1610.2.

Direct Payment Permits, see Regulation 1699.5.

- (B) Other related regulations:

Interstate and Foreign commerce, see Regulation 1620.

**(a) IN GENERAL.** The law provides that for the purpose of the proper administration of the sales and use tax and to prevent evasion of the sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established.

This presumption may be rebutted by the seller as to any sale by establishing to the satisfaction of the Board that the gross receipts from the sale are not subject to the tax or by timely taking a resale certificate as provided in Regulation 1668 or by taking a certificate as provided in this regulation.

**(b) EFFECT.**

(1) Except as stated hereinafter, a seller is relieved of the liability for sales tax if the purchaser timely certifies in writing to the seller that the property will be used in a manner or for a purpose entitling the seller to regard the gross receipts from the sale to be exempted from the sales tax by one or more of the provisions of Chapter 4 (commencing with Section 6351) of the Sales and Use Tax Law. A certificate will be considered timely if it is given at any time before the seller bills the purchaser for the property, or any time within the seller's normal billing and payment cycle, or any time at or prior to delivery of the property to the purchaser.

The certificate shall relieve the seller from liability for the sales tax only if it is taken in good faith.

Invoices on sales claimed by a seller as exempt should specify the names of the purchasers in order to relate them to exemption certificates.

(2) Effective January 1, 1990, a certificate of exemption from the sales tax for the sale of tangible personal property, other than fuel or petroleum products, to a foreign air carrier need not be received timely. A seller will be allowed 45 days from the date of the Board's written request to obtain an exemption certificate from the purchasing foreign air carrier as provided in Regulation 1621(c)(2), 18 CCR 1621.

(3) If a purchaser certifies in writing to a seller that the property purchased will be used in a manner or for a purpose entitling the seller to regard the gross receipts from the sale as exempt from the sales tax and uses the property in some other manner or for some other purpose, the purchaser shall be liable for payment of sales tax as if the purchaser were a retailer making a retail sale of the property at the time of such use and the sales price of the property to the purchaser shall be deemed the gross receipts from such retail sale.

The term "use" is the same as defined in Section 6009 of the Sales and Use Tax Law without the exclusion defined in Section 6009.1.

**(c) ISSUANCE OF CERTIFICATES.**

(1) **FORM OF CERTIFICATES.** Certain other regulations prescribe the form of exemption certificates to be used with respect to several specific kinds of transactions. Where no specific form of certificate is prescribed, the certification must be in writing and include the date; the signature of the purchaser, the purchaser's agent, or the purchaser's employee; the name and address of the purchaser; the number of the purchaser's seller's permit, or if the purchaser is not required to hold a seller's permit, a notation to that effect and the reason; a description of the property purchased under the certificate; and a statement of the manner in which or the purpose for which the property will be used so as to make the sales tax inapplicable to the sale.

## **Regulation 1667. EXEMPTION CERTIFICATES.(Continued)**

To relieve the seller from liability for the sales tax, the statement of the manner in which or the purpose for which the property will be used must be one which under the provisions of Chapter 4 (commencing with Section 6351) of the Sales and Use Tax Law does entitle the seller to regard the gross receipts from the sale as exempted from the sales tax.

(2) **ISSUANCE OF CERTIFICATES WHERE NOT APPROPRIATE.** There are several cases in which certification will not relieve the seller of liability for the sales tax. In such cases, an exemption certificate should not be obtained but rather the facts and documentation of the transaction must support the exemption. For example, a certification to the effect that sales tax does not apply because the property purchased will be exported and shipped out of state, does not relieve the seller of liability for the sales tax. A sale is exempt from sales tax as a sale in interstate or foreign commerce only if the conditions set forth in Regulation 1620 are met, and the seller should obtain the documentation required by that regulation in order to support the exemption.

*History:* Adopted April 6, 1977, effective July 1, 1977.

Amended December 7, 1977, effective January 19, 1978.

In (b) (1) changed "exempt when received with knowledge of falsity" to "good faith" requirement, and in (b) (2) defined "use".

Amended July 31, 1991, effective October 19, 1991. Amended pursuant to Chapter 230, Statutes of 1989. Amended paragraph (a) to eliminate "timely". Renumbered paragraph (b) (2) to (b) (3) and added new paragraph (b) (2).

*Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.*